

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT

In re:	)	Case No. 14-44811-399
	)	Honorable Barry S. Schermer
JAMAT, LLC,	)	Chapter 11 Proceeding
)	
Debtor.	)	Hearing Date: February 11, 2015
	)	Hearing Time: 1:00 p.m.
	)	Hearing Location: Courtroom 5 North
	)	Response Date: February 11, 2015
)	
	)	Spencer P. Desai, Esq.
	)	Danielle Suberi, Esq.
	)	Desai Eggmann Mason LLC
	)	7733 Forsyth Boulevard, Suite 2075
	)	St. Louis, Missouri 63105
	)	(314) 881-0800
	)	sdesai@demlawllc.com
	)	dsuberi@demlawllc.com

**MOTION TO ALTER OR AMEND ORDER AUTHORIZING DEBTOR TO
OBTAIN SECURED POST-PETITION FINANCING PURSUANT TO § 364(c)(2)**

COMES NOW Jamat, LLC d/b/a Mattress Source (“**Debtor**” or “**Movant**”), by and through counsel, and pursuant to Federal Rule of Bankruptcy Procedure 9024, submits this *Motion to Alter or Amend Order Authorizing Debtor to Obtain Secured Post-Petition Financing Pursuant to §364(c)(2) of the Bankruptcy Code* (the “**Motion**”). In support of the Motion, Debtor respectfully states as follows:

BACKGROUND

1. On June 12, 2014, (the “**Petition Date**”), Debtor filed a voluntary petition for relief under Chapter 11, Title 11 of the United States Code (the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the Eastern District of Missouri.

2. Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, Debtor is continuing to operate its business as a debtor in possession. No trustee or examiner has been appointed, and no official committee of creditors or equity interest holders has yet been established in this Chapter 11 case

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(D).

4. Debtor's primary secured creditor is Arsenal Credit Union ("**Arsenal**").

5. As of the Petition Date, Debtor owed Arsenal the approximate principal amount of \$500,000.00 under its agreement with Lender (the "**Arsenal Secured Debt**").

6. The Arsenal Secured Debt is secured by a valid, perfected, enforceable, first-priority lien and security interest in Debtor's inventory, equipment, chattel paper, accounts, general intangibles, consumer goods and proceeds, among other things (collectively, the "**Collateral**").

7. As of the Petition Date, Debtor also owed Arsenal the approximate principal amount of \$19,750.00 pursuant to a second note secured by the Collateral and a Deed of Trust on the real estate located at 2597 Breakwater Drive, Imperial, Missouri 63052 (the "**Breakwater Real Estate**") owned by Barry and Valerie Seidel, the Debtor's principals (the "**Arsenal Junior Debt**," and collectively with the Arsenal Secured Debt referred to as the "**Arsenal Indebtedness**").

8. As of October 8, 2014, the outstanding principal balance of the Arsenal Secured Debt was \$434,500.00 and the outstanding principal balance of the Arsenal Junior Debt was \$16,645.57

9. On October 9, 2014, Debtor filed its Emergency Motion for Order Authorizing Post-Petition Financing Pursuant to 11 U.S.C. § 364(c) (the “**Motion for Post-Petition Financing**”).

10. On November 11, 2014, this Court entered its Order Granting Debtors’ Motion Post-Petition Financing (the “**Financing Order**”).

11. The Financing Order authorized Debtor to obtain new financing from Financial and Marketing Solutions, LLC (“**FMS**”) in a base principal amount of up to \$450,000.00 to repay and replace the Arsenal Secured Debt pursuant to §364(c)(2) (the “**FMS Loan**”). Further, as security for Debtor’s obligations to FMS under the FMS Loan, the Financing Order authorized Debtor’s to grant FMS a valid, perfected, first priority lien in all assets of the Debtor and all proceeds thereof, a second deed of trust on the Breakwater Real Estate, and a second deed of trust on the real estate located at 9379 E. Vista Drive, Hillsboro, Missouri 63050. As additional security, Barry Seidel and Valerie Seidel, VBS Enterprises d/b/a Noctova Sleep agreed to guarantee the FMS Loan.

12. FMS is no longer willing to provide post-petition secured financing to Debtor pursuant to the terms of the FMS Loan and Financing Order.

13. Debtor has obtained a commitment from DLJ Lending, LLC (“**DLJ**”) whereby DLJ will provide post-petition secured financing to Debtor under the same or better terms as the FMS Loan.

14. Under the Federal Rule of Civil Procedure 60(b), incorporated herein by Federal Rule of Bankruptcy Procedure 9024, this Court may alter or amend an order due to a surprise. Debtor submits that FMS’ unwillingness to extend post-petition secured financing to Debtor pursuant to the terms of the Financing Order came as a surprise.

15. By this Motion, the Debtor seeks to alter or amend the Financing Order to authorize Debtor to obtain new financing from DLJ under the same or better terms as the FMS Loan, to use the proceeds of the DLJ Loan to repay and replace the Arsenal Secured Debt pursuant to §364(c)(2). Debtors do not seek to alter or amend the remaining terms of the Financing Order.

16. To facilitate a prompt closing of the loan, Debtor requests that the time period set forth in Bankruptcy Rule 6004(h) be waived and that the altered or amended order be immediately final.

WHEREFORE the Debtor hereby respectfully requests this Court enter its Order altering and amending the Financing Order to authorize Debtor to obtain new financing from DLJ under the same or better terms as the FMS Loan, to use the proceeds of the DLJ Loan to repay and replace the Arsenal Secured Debt pursuant to §364(c)(2), and for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

DESAI EGGMANN MASON LLC

By: /s/ Danielle Suberi
SPENCER P. DESAI #39877MO
DANIELLE SUBERI #59688MO
7733 Forsyth Boulevard, Suite 800
St. Louis, Missouri 63105
(314) 881-0800
Fax No. (314) 881-0820
sdesai@demlawllc.com
dsuberi@demlawllc.com

ATTORNEYS FOR DEBTOR